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Draft report

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Addendum

Implementation of the international drug control treaties

1. At its 7th, 8th and 9th meetings, on 17 and 18 March 2016, the Commission considered agenda item 6, which read as follows:

"Implementation of the international drug control treaties:

"(a) Challenges and future work of the Commission on Narcotic Drugs and the World Health Organization in the review of substances for possible scheduling recommendations;

"(b) Changes in the scope of control of substances;

"(c) International Narcotics Control Board;

"(d) International cooperation to ensure the availability of narcotic drugs and psychotropic substances for medical and scientific purposes while preventing their diversion;

"(e) Other matters arising from the international drug control treaties."

2. For its consideration of item 6, the Commission had before it the following:

(a) Note by the Secretariat on changes in the scope of control of substances (E/CN.7/2016/9);

(b) *Report of the International Narcotics Control Board for 2015* (E/INCB/2015/1);

(c) *Report of the International Narcotics Control Board on the Availability of Internationally Controlled Drugs: Ensuring Adequate Access for Medical and Scientific Purposes* (E/INCB/2015/1/Supp.1);

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(d) *Precursors and Chemicals Frequently Used in the Illicit Manufacture of Narcotic Drugs and Psychotropic Substances: Report of the International Narcotics Control Board for 2015 on the Implementation of Article 12 of the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988* (E/INCB/2015/4);

(e) *Competent National Authorities under the International Drug Control Treaties* (ST/NAR.3/2015/1);

(f) A conference room paper entitled "New psychoactive substances: overview of trends, challenges and legal approaches" (E/CN.7/2016/CRP.2).

3. Introductory statements were made by the President of the International Narcotics Control Board and the Chief of the Laboratory and Scientific Section of UNODC. An audiovisual presentation was made by a representative of the Prevention, Treatment and Rehabilitation Section of the Drug Prevention and Health Branch of UNODC. The observer for WHO made introductory statements as well.

4. Statements were made by the representative of the Netherlands on behalf of the European Union. A statement was also made by the representative of the Netherlands on behalf of the European Union and Albania, Andorra, Armenia, Bosnia and Herzegovina, Iceland, Montenegro, Norway, Serbia, the former Yugoslav Republic of Macedonia, Turkey, the Republic of Moldova and Ukraine.

5. Statements were made by the representatives of China, Thailand, Japan, Nigeria, the Netherlands, Canada, Pakistan, Brazil, Mexico, the United States of America, Belarus, the Russian Federation, Austria and the United Kingdom of Great Britain and Northern Ireland.

6. Statements were made by the observers for Iraq and the Bolivarian Republic of Venezuela.

7. Statements were also made by the observers for the Vienna NGO Committee on Drugs, Viva Rio and Students for Sensible Drug Policy.

A. Deliberations

1. Challenges and future work of the Commission on Narcotic Drugs and the World Health Organization in the review of substances for possible scheduling recommendations

8. The need for informed international scheduling decisions by the Commission under the conventions to tackle the most harmful, persistent and prevalent new psychoactive substances was highlighted, together with the work of the WHO Expert Committee on Drug Dependence, supported by UNODC, in identifying the adverse health effects of new psychoactive substances. The importance of ensuring the continued availability of narcotic drugs and psychotropic substances while preventing their diversion was also highlighted.

9. Reference was made to the importance and utility of the UNODC early warning advisory on new psychoactive substances and of the global Synthetics Monitoring: Analysis, Reporting and Trends (SMART) programme. The role of INCB in addressing the issue of new psychoactive substances was noted as well.

10. Appreciation was expressed by a number of speakers for the work of the Expert Committee on Drug Dependence and States were urged to continue to submit evidence to it in order to support the review process. The importance of enhancing data collection, as well as cooperation between the Committee and UNODC, INCB and regional organizations, such as the European Monitoring Centre for Drugs and Drug Addiction, was recognized. WHO was also urged to make the reports on the meetings of the Committee available to Member States at an earlier stage and to disseminate more widely the list of substances that the Committee recommended should be kept under surveillance.

11. One speaker expressed regret regarding the decision of WHO on the scheduling of ketamine, in view of its increasing abuse, production and trafficking, especially in Asia. He noted that its placement under Schedule IV of the 1971 Convention would ensure the application of the principle of a comprehensive and balanced approach to preventing the abuse, diversion and illicit trafficking of the drug, while ensuring its availability for medical use. He called on the Expert Committee to improve its cooperation with the Commission and to make full use of the information provided by States. He also referred to Commission decision 58/2, whereby the consideration of the proposal to place ketamine in Schedule IV of the 1971 Convention had been postponed and additional information was requested from WHO and other relevant sources. A number of speakers invited the Commission to consider placing ketamine under Schedule IV of the 1971 Convention.

12. A number of speakers expressed concern regarding the disproportionate impact that the scheduling of the anaesthetic agent ketamine, which was classified as an essential medicine by WHO, would have in lower- and middle-income countries and during emergencies such as wars and natural disasters, or where no adequately trained personnel existed. It was proposed that States continue cooperating and exchanging information on national and regional experiences of tackling the public health harms of the misuse of ketamine. The need to enhance international cooperation to reduce existing technical gaps among Member States was noted.

2. Changes in the scope of control of substances

(a) Consideration of a proposal from the World Health Organization to place acetylfentanyl in Schedules I and IV of the 1961 Convention as amended by the 1972 Protocol

13. The observer for WHO informed the Commission that acetylfentanyl was a compound with typical morphine-like properties including physical dependence. It had been extensively trafficked internationally, its use had resulted in over 50 recorded deaths and it had no medical uses. The effects of acetylfentanyl were similar to those of morphine and fentanyl, which were included in Schedule I of the 1961 Convention. It was therefore recommended that acetylfentanyl be placed in Schedule I of the 1961 Convention. The Expert Committee on Drug Dependence, at its 37th meeting, had also considered that acetylfentanyl was particularly liable to abuse and to producing ill effects without therapeutic advantages, and had therefore recommended its placement in Schedule IV of the 1961 Convention as amended.

(b) Consideration of a proposal from the World Health Organization to place MT-45 in Schedule I of the 1961 Convention as amended

14. The observer for WHO informed the Commission that MT-45 was a compound with typical morphine-like qualities including physical dependence, that its use had been recorded in several countries, that reports existed of fatal and non-fatal overdoses of the substance and that it had no current medical uses. The effects of MT-45 were similar to those of morphine and other opioids that were included in Schedule I of the 1961 Convention as amended; therefore, the Committee had recommended that MT-45 be placed in Schedule I of that Convention.

(c) Consideration of a proposal from the World Health Organization to place *para*-methoxymethylamphetamine in Schedule I of the 1971 Convention

15. The observer for WHO informed the Commission that *para*-methoxymethylamphetamine (PMMA) was similar to the scheduled substances methamphetamine and *para*-methoxyamphetamine (PMA). He noted that PMMA had effects similar to those of PMA, which was a drug listed in Schedule I of the 1971 Convention. The use of PMMA had been reported in a number of countries and the rate of overdose deaths had been increasing. PMMA had no medical use. The Committee considered that the degree of risk to public health and society associated with the abuse of PMMA was especially serious and had therefore recommended that PMMA be placed in Schedule I of the 1971 Convention.

(d) Consideration of a proposal from the World Health Organization to place α-pyrrolidinovalerophenone, *para*-methyl-4-methylaminorex (4,4'-DMAR) and methoxetamine in Schedule II of the 1971 Convention

16. The observer for WHO informed the Commission that the substances α-pyrrolidinovalerophenone, *para*-methyl-4-methylaminorex (4,4'-DMAR) and methoxetamine (MXE) had been abused in a number of different countries and had been shown to cause multiple overdose deaths. None of them had any medical uses. The Committee considered that the degree of risk to public health and society associated with the abuse of each of the substances was substantial and it had therefore recommended that they be placed in Schedule II of the 1971 Convention.

(e) Consideration of a proposal from the World Health Organization to place phenazepam in Schedule IV of the 1971 Convention

17. The observer for WHO informed the Commission that the illicit use of phenazepam had increased in a number of countries in recent years, that its use had been associated with a number of overdose deaths and with an increased risk of traffic accidents and that it was used therapeutically in some countries. Phenazepam had been shown to have effects similar to diazepam and many other benzodiazepines that were included in Schedule IV of the 1971 Convention. The Committee considered that the degree of risk to public health and society associated with the abuse of phenazepam was smaller compared with substances in Schedules I to III, but still significant. Phenazepam had some therapeutic usefulness. The Committee considered that the evidence of its abuse warranted its placement in Schedule IV of the 1971 Convention.

18. In response to a request for additional information, the observer for WHO noted that phenazepam belonged to the 1,4-benzodiazepines, the same family to which diazepam, oxazepam and temazepam belonged, and that it had a structural resemblance to diazepam, which was in Schedule IV of the 1971 Convention. He also noted that phenazepam could induce tolerance, and that the discontinuation of its administration could result in withdrawal effects, which was indicative of physical dependence. Furthermore, he informed the Commission that user reports had indicated that phenazepam could be used to enhance the euphoric reports of opioids and that effects such as psychomotor impairment, respiratory arrest, psychotic experiences and delirium, as well as overdose and death, had been reported. Driving under its influence had also been reported. He stated that the Committee had undertaken a pre-review of the substance and considered that the information provided in the pre-review report had been sufficient and had indicated that the dependence and harm caused by phenazepam was of such magnitude that proceeding directly into a critical review during the meeting had been warranted. All procedural requirements for a critical review, including two peer reviews, had been fulfilled. Phenazepam had been shown to have effects similar to diazepam, which was listed in Schedule IV of the 1971 Convention. The Committee considered that the degree of risk to public health and society associated with the abuse of phenazepam was significant.

3. International Narcotics Control Board

19. Appreciation was expressed for the work carried out by INCB and for the release of its annual report for 2015. Its important role in monitoring the implementation of the international drug control conventions was welcomed. States were called upon to make better use of the tools made available by INCB, such as the Precursors Incident Communication System (PICS), Pre-Export Notification Online (PEN Online) and the International Import and Export Authorization System (I2ES).

20. The need for a comprehensive, integrated and balanced approach to the drug problem in order to ensure the health and welfare of humankind was reiterated, and continued commitment to the international drug control conventions was expressed. It was noted that socioeconomic aspects, such as poverty, food insecurity, economic inequality and social exclusion, had a negative impact on supply and demand reduction efforts. Reference was made to the obligation of States parties under the conventions to ensure the availability of narcotic drugs and psychotropic substances for medical and scientific purposes, while preventing their diversion and abuse. It was also noted that the conventions required the application of the principle of proportionality and the use of alternatives to imprisonment.

21. A number of speakers encouraged States that imposed the death penalty to consider abolishing it for drug-related offences. Another speaker stated that every country had the right to adopt its own legislation and policies, in line with national and international law.

22. Several speakers expressed concern regarding the rapid spread of and the threat posed by new psychoactive substances, as well as regarding the diversion from domestic channels and the use of precursor chemicals.

23. The role of the Commission, INCB and WHO in responding to new psychoactive substances was highlighted. Reference was made to the need for partnerships between authorities and the relevant industrial sectors. Reference was also made to the importance of streamlining the review and scheduling processes and WHO was requested to prioritize the review of new psychoactive substances on the basis of prevalence, persistence and potential harm. States were urged to increase voluntary cooperation and efforts to put substances under provisional control under the conventions until international controls could be put into place.

4. International cooperation to ensure the availability of narcotic drugs and psychotropic substances for medical and scientific purposes while preventing their diversion

24. Support was expressed for international cooperation in ensuring the availability of controlled substances for medical and scientific purposes. It was noted that, in cases where the scheduling of substances at the international level could result in a lack of availability in some areas, including rural or remote regions, targeted regulatory measures could be designed to facilitate availability to such substances.

5. Other matters arising from the international drug control treaties

25. At its 8th meeting, on 17 March 2016, the Commission considered agenda item 6 (e), entitled "Other matters arising from the international drug control treaties". No issues were raised under the item.

B. Action taken by the Commission

26. At its 9th meeting, on 18 March 2016, the Commission on Narcotic Drugs included acetylfentanyl in Schedules I and IV of the 1961 Convention as amended by the 1972 Protocol. (For the text of the decision, see chap. I, sect. C, decision [...].)

27. At the same meeting, the Commission decided to include MT-45 in Schedule I of the 1961 Convention as amended. (For the text of the decision, see chap. I, sect. C, decision [...].)

28. Also at the same meeting, the Commission decided by 48 votes to none, with no abstentions, to include *para*-methoxymethylamphetamine (PMMA) in Schedule I of the 1971 Convention. (For the text of the decision, see chap. I, sect. C, decision [...].)

29. Also at its 9th meeting, the Commission decided by 48 votes to none, with 1 abstention, to include α-pyrrolidinovalerophenone (α-PVP) in Schedule II of the 1971 Convention. (For the text of the decision, see chap. I, sect. C, decision [...].)

30. At the same meeting, the Commission decided by 48 votes to none, with 1 abstention, to include *para*-methyl-4-methylaminorex (4,4'-DMAR) in Schedule II of the 1971 Convention. (For the text of the decision, see chap. I, sect. C, decision [...].)

31. Also at the same meeting, the Commission decided by 48 votes to none, with 1 abstention, to include methoxetamine (MXE) in Schedule II of the 1971 Convention. (For the text of the decision, see chap. I, sect. C, decision [...].)

32. Also at its 9th meeting, the Commission decided by 46 votes to 2, with no abstentions, to include phenazepam in Schedule IV of the 1971 Convention. (For the text of the decision, see chap. I, sect. C, decision [...].) Following the adoption of the decision, the representative of Belarus stated that his Government had voted against the scheduling of phenazepam because it was widely used as a medicine and in the medical industry. He requested WHO to provide further clarifications, given that there were similar substances, used in medicine, whose use was restricted, although they were not placed under international control. Also following the adoption of the decision, the representative of the Russian Federation noted that all the substances considered by the Commission at its fifty-ninth session for scheduling, except phenazepam, had already been placed under control in the Russian Federation. The representative expressed disappointment with the outcome of the voting on the scheduling of phenazepam and with the fact that phenazepam had been recommended for scheduling as it was not a psychotropic or highly active substance. He also noted that, in the Russian Federation, phenazepam was included in the general list of medical substances and that it had been widely used for medical purposes since the 1970s. The representative stated that there was no evidence of large-scale abuse of phenazepam for non-medical purposes and that the WHO recommendation would limit its use in the treatment of patients who needed it. Furthermore, the representative raised the issue of the motives and transparency of WHO recommendations and noted that WHO should provide clear and detailed criteria describing how it formulated recommendations for scheduling. The representative also recalled the situation with ketamine, the consideration for scheduling of which had been postponed owing to its widespread medical use, and noted that that criterion had not been taken into account in the case of phenazepam. The representative expressed the view that a consistent, comprehensible and substantiated approach to the critical review of substances recommended for scheduling at the international level should be developed.

33. Following the adoption of the decisions on scheduling of MT-45, α-pyrrolidinovalerophenone (α-PVP), *para*-methyl-4-methylaminorex (4,4'-DMAR) and methoxetamine (MXE), the representative of Austria noted that her Government had abstained from voting because, although global answers on the specific global phenomenon of new psychoactive substances were needed, it questioned whether the existing mechanism was appropriate. She referred to the changing consumer markets for new psychoactive substances, in which a high increase in the number of identified substances had emerged within a few years, and the continued proliferation of new chemical variations. She noted that there was a free market for those chemicals in which they were profitably sold to consumers until they were scheduled, which was done on an individual basis and after some time. Once scheduled, a few substances, possibly from whole groups of analogue substances, stood in relation to a large number of others that were not scheduled, while new substances continued to emerge. She stated that none of the newly emerging chemicals on the market could be presumed safe for consumption, since none had been subject to studies on the impact of their consumption on health; sound data on the potential health risks of acute and long-term consumption and the effects of interactions with other substances were lacking; no information on the health

consequences of consuming those chemicals frequently or over a period of time was available; and there was no guarantee that substances were correctly labelled when sold to consumers, as production and trade were not subject to any control. Furthermore, products often contained other substances or higher concentrations than expected by the buyer, which led to consumer incidents. She noted that the situation with new psychoactive substances required tailor-made solutions. Austria had implemented a specific legal approach to the phenomenon of those substances in 2012, with its New Psychoactive Substances Act. Although it had implemented a criminal regime, the offences covered under the Act were exclusively related to supply to consumers; when appropriate, it allowed for a generic approach in order to break the cycle of new substances emerging and the public regulator always lagging behind. The Act enabled law enforcement authorities to act immediately against those who supplied consumers with new psychoactive substances and to seize the substances, unless a legitimate purpose for the substance was identified and the substance was not used for human consumption. She stated that effective health-related interventions were needed, that prevention, information, education and awareness-raising among target groups with regard to the risks played an important role, and that consumers and potential consumers needed to be encouraged to talk openly about why, what and how they consumed new psychoactive substances. She explained that that was why the Government of Austria avoided criminalizing consumers; Austria was convinced that criminalization and penalization would motivate consumers to develop secretive consumption behaviours which, in turn, would make it difficult to provide them with preventive messages and make them aware of the health risks related to the consumption of new psychoactive substances. She noted that all the substances proposed for scheduling by WHO during the session were either already controlled in Austria or would soon be placed under control, most of them under specific regulations on new psychoactive substances. She reiterated the willingness of Austria to cooperate with the international community, while encouraging it to consider new approaches specially designed to address the specific challenges posed by new psychoactive substances, and thereby paying the utmost attention to public health requirements.

34. Following the adoption of all the decisions on scheduling, the representative of the United Kingdom expressed appreciation to WHO for conducting evidence-based reviews of substances under international control and for the support provided by UNODC, INCB, the European Monitoring Centre for Drugs and Drug Addiction and other organizations and Member States. He noted that international scheduling was an effective tool for restricting supply and reducing the public health harms of the most prevalent, persistent and harmful new psychoactive substances and that a comprehensive and balanced approach to such substances required distinct but complementary approaches at the national, regional and international levels that enhanced national action and were guided by local circumstances. He called for greater ambition from WHO, international organizations and Member States in the number of substances reviewed and scheduled at the international level, where that did not restrict their legitimate use.